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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,230	02/11/2002	Guenter Koelle	225/50877	9239
7590	02/28/2004			
CROWELL & MORING, LLP P.O. Box 14300 Washington, DC 20044-4300			EXAMINER WARREN, DAVID S	
			ART UNIT 2837	PAPER NUMBER

DATE MAILED: 02/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/071,230

Applicant(s)

KOELLE, GUENTER

Examiner

David S. Warren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-18, 20, 21 and 24-29 is/are rejected.
- 7) ☒ Claim(s) 10, 19, 22, 23 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

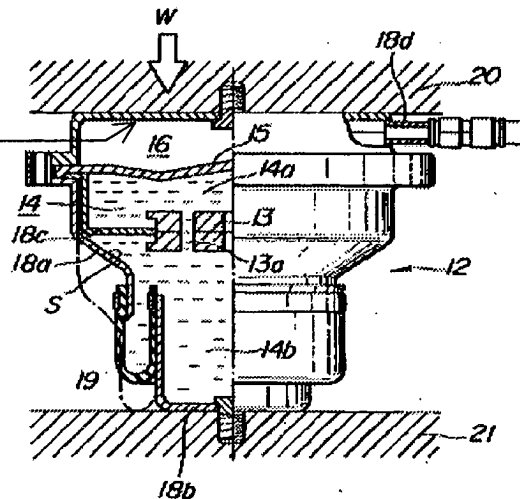
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 - 9, 11 - 18, 20, 21, and 24 - 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimura ('648). Regarding independent claims 1 and 12, Kimura discloses the use of reducing the transmission of sound and/or vibration between components (20, 14) by inserting air cushion (16) between components wherein the air cushion rests directly against both elements 20 and 14.

Unnumbered element  
discussed below



Regarding claims 20 and 26, Kimura shows two components spaced from one another (20, 14), an air cushion placed between the components and having respective air cushion cover surface sections (15, and the unnumbered element shown above), wherein the air cushion includes an internal cavity connectable with a pressure source (17) to increase pressure within the air cushion and press the cover surface sections toward the respective components so that the cover surface sections contact (and rest against) the respective components when in the installed position thereby forming a sound muffling assembly between the components. Regarding claims 2 – 4 and 21, the air pressure of Kimura's system may be adjusted after installation (see col. 2, lines 47 – 49). As in the previous Office Action, the term "slight" is a relative term, the applicant has not provided a standard for comparison. Regarding claims 5 and 14, the elasticity of the cover is inherent since Kimura discloses that the height of the seat may be adjusted by adjusting the air pressure (col. 3, first paragraph). Regarding claims 6 and 15, any material, at some frequency, will be "muffler-active." Regarding claim 7, 8 and 16, the air cushion of Kimura must be gas tight, otherwise "pressure" could not be adjusted and controlled and the cushion takes the "approximate" shape between the components. Regarding claims 9, 17, and 24, a "blower" is defined as "a device for producing a current of air" (Webster's New World Dictionary, College Edition, 1966), Kimura uses phrases that inherently indicate a current of air, e.g., "air inlet" and "air feed duct" (col. 2, lines 46 and 47). Regarding claims 11 and 28, Kimura shows that elements 18a and 18b are moveable with respect to one another by changing the volume of "S" (i.e., by changing air pressure in 16), any change in dimension of "S" will

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inherently alter the frequency muffled. Regarding claims 13 and 18, air cushion has a gas supply opening 18d (fig. 2). Regarding claims 25 and 27, the “unnumbered element” and element 15, of Kimura appear to be different thicknesses (see fig. 2).

### ***Allowable Subject Matter***

Claims 10, 19, 22, 23, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Kimura, nor any prior art, disclose the use of connecting an air cushion used for vibration/sound dampening to a heater or air conditioner.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 - 29 have been considered but are moot in view of the new ground(s) of rejection. In the previous Office Action, the examiner arbitrarily referred to elements 20 and 21 (see Kimura's fig. 2) as “components,” however, the term “component” is so broad that any element in Kimura can be considered a “component.” To overcome the rejection, the examiner recommends a narrower term. Therefore, with components (20, 14), the applicant's argument that nothing in Kimura suggests “that the air cushion rests at least indirectly

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against at least one surface respectively of each of the components” is now moot.

Furthermore, the independent claims 1 and 12, merely recite “indirectly” resting against a surface – the examiner interprets this to mean “not directly resting against,” this situation is shown in Kimura's fig. 2 where any number of “components” may be between the cushion and “component.” Likewise for claims 20 and 26, the applicant argues that “[n]othing in Kimura... suggests that the cover surface section... ever contacts the lower base panel 21.” As above, this argument is now moot since the examiner now considers 14 to be a “component.”

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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The patent to Fuchs et al. ('649) is cited to show an air flow duct within a sound absorbing panel connected to an air conditioner (col. 5, paragraph 4).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David S. Warren whose telephone number is 571-272-2076. The examiner can normally be reached on M-F, 9:30 A.M. to 6:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on 571-272-2800 ext 37. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DSW

  
**ROBERT NAPPI**  
**SUPERVISORY PATENT EXAMINER**